# Accountability Report
## 2014–2015

Public Prosecution Service

NOVA SCOTIA

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## Accountability Statement

The accountability report of the Nova Scotia Public Prosecution Service for the year ended March 31, 2015 is prepared pursuant to the Finance Act and government policies and guidelines. These authorities require the reporting of outcomes against the Public Prosecution Service's Statement of Mandate for the fiscal year just ended. The reporting of the Public Prosecution Service outcomes necessarily includes estimates, judgments and opinions by the Public Prosecution Service.

We acknowledge that this accountability report is the responsibility of the Nova Scotia Public Prosecution Service. This report is, to the extent possible, a complete and accurate representation of outcomes relative to the goals and priorities set out in the Public Prosecution Service 2014-2015 Statement of Mandate.

In terms of accountability, it should be noted that the Nova Scotia Public Prosecution Service was established in 1990 as the first statutorily-based independent prosecution service in Canada. All prosecutions within the jurisdiction of the Attorney General of Nova Scotia are the responsibility of the Director of Public Prosecutions. Crown Attorneys responsible to the Director conduct prosecutions independently of the Minister. The only limitation on the operational independence of the Director permitted by the Public Prosecutions Act arises when the Attorney General issues written instructions to the Director of Public Prosecutions. These instructions are binding and must be made public. This procedure preserves the ultimate prosecutorial authority of the Attorney General. It is a means of ensuring accountability to the electorate for the manner in which public prosecutions are conducted.

Martin E. Herschorn

**Martin E. Herschorn QC**
**Director of Public Prosecutions**

July 20, 2015

**Date**

## Message from the Director of Public Prosecutions

I am pleased to present this accountability report of the Nova Scotia Public Prosecution Service for 2014-2015.

This year our 92 Crown Attorneys across the province dealt with 40,700 criminal charges and prosecuted 10,507 provincial statute violations.

The e-disclosure initiative continues to make progress. Government approved the creation of a term position – e-disclosure analyst. The e-disclosure analyst is now advancing alternative methods of electronic transfer of information from police to Crown without the use of CDs.

Case management remains a concern for the Public Prosecution Service. An established case management software solution in use in another Canadian jurisdiction is being studied to determine if it is adaptable for Nova Scotia. This software also features a method by which to electronically transfer disclosure from police to Crown.

Education and training was again a major priority for the PPS this year. Crown Attorneys attended the PPS's annual fall educational conference for three days of education on a variety of criminal law topics. The conference program allowed Crown Attorneys to achieve full compliance with the requirements set by the Nova Scotia Barristers' Society for mandatory professional development for lawyers.

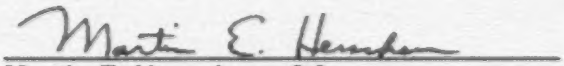
Last summer the PPS successfully recruited an additional prosecutor to focus on Occupational Health and Safety Offences. This position is funded by the Department of Labour and Advanced Education and as per the agreement with that department, the PPS provided a 2014-2015 year-end report on the activity of that prosecutor.

The PPS continued to work in cooperation with justice partners in identifying contributing causes of provincial court delay and to streamline the processing of cases. The PPS has successfully developed an in-house electronic alert system identifying cases which are at risk due to delay.

The PPS continued to monitor cases for inclusion of appropriate offenders in the national flagging program and is transitioning its FOIPOP services to the corporate model of delivery.

With the appointment late last year of a new Deputy Director, there has been a new focus on policy development. Policy gaps have been identified, new policies written and others revised.

The PPS continued to provide communications designed to enhance community understanding of the role of the Crown Attorney and of the prosecutorial process. As was the case last year, issues management required significant resources with regard to many ongoing high profile cases.



**Martin E. Herschorn QC**
**Director of Public Prosecutions**

## Financial Results

| | 2014-2015 Estimate | 2014-2015 Actual |
|---|---|---|
| Program and Service Area | ($ thousands) | ($ thousands) |
| GROSS DEPARTMENTAL EXPENSES | | |
| Head Office | 2,837 | 2,654 |
| Cape Breton Region | 3,155 | 3,365 |
| Central Region | 2,726 | 2,894 |
| Halifax Region | 6,947 | 7,107 |
| Western Region | 2,782 | 3,097 |
| Special Prosecutions | 1,657 | 1,533 |
| Appeals | 1,033 | 1,221 |
| Total Gross Departmental Expenses | 21,137 | 21,871 |
| | | |
| ADDITIONAL INFORMATION: | | |
| Fees and Other Charges | 0 | 0 |
| Ordinary Recoveries | 262 | 243 |
| TCA Purchase Requirements | - | -- |
| Provincial Funded Staff (FTEs) | 170.7 | 166.3 |

## Measuring Our Performance

| OUTCOME DESCRIPTION | WHAT DOES THIS MEASURE TELL US? | WHERE ARE WE NOW? | WHERE DO WE WANT TO BE? |
|---|---|---|---|
| **High quality trial work** | That the PPS is delivering high quality trial work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality trial work in presenting the evidence thoroughly and fairly to ensure the proper verdict is reached. | All Nova Scotia Crown Attorneys have achieved a performance rating of competent or higher. They are generally given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place. | Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court. |

| | | | |
|---|---|---|---|
| **High quality appeal work** | That the PPS is delivering high quality appeals work by Crown Attorneys who attain a performance evaluation of competent or higher; are provided with adequate preparation time for in-court work; are supported by continuing legal education; and, where applicable, are mentored by senior colleagues. These elements ensure the delivery of high quality appeal work in presenting the evidence thoroughly and fairly to ensure the proper decision is reached. | All Appeals Crown Attorneys have achieved a performance rating of competent or higher. They are always given adequate time to prepare cases for court. They are provided with continuing legal education. A mentoring program has been developed and is in place. | Crown Attorney performance evaluations would be enhanced by in-court monitoring. A case management information system would maximize efficiencies as Crowns prepare for and deliver their cases in court. |

| | | | |
|---|---|---|---|
| **Provide high quality legal advice and assistance** | That the PPS is providing police with high quality legal advice and assistance when requested during the course of police investigations. This helps police in collecting evidence and laying appropriate charges. Ultimately, high quality legal advice to police helps to ensure quality trial work when the case goes to court. | The PPS continues to provide timely responses to requests from police and provincial enforcement officers for legal advice on particular cases or direction on matters of criminal law.<br><br>The PPS is in its third year of requiring Crown Attorneys to record all advice given to police so that the PPS may measure both quality and quantity of advice. | All advice to police should be examined and evaluated to make a determination on volume and Crown workload. As well, a quality assessment analysis should be undertaken. |
| **Provide Crown representation in the development of criminal law and criminal prosecution policy** | That the PPS provides input into the development of criminal law and criminal prosecution policy from both an administrative and a frontline perspective. | The PPS participates in joint meetings, including Federal/Provincial/Territorial (FPT) Ministers and Deputy Ministers meetings, Coordinating Committee of Senior Justice Officials and FPT Heads of Prosecutions, meetings of the Provincial Justice Partners Committee and the International Association of Prosecutors. Crown Attorneys also participate in provincial policy initiatives. The PPS continues to liaise with other prosecution services to maintain awareness of best practices for delivery of prosecution services. | To maintain or enhance the existing level of contribution to policy development. |

# APPENDICES

*All statistics with the exception of appeals received through the kind co-operation of the Nova Scotia Department of Justice*

# APPENDIX A

## Criminal Code Charges in Provincial Court by Offence Category and Judicial Centre 2014-2015

| OFFENCE CATEGORIES | HALIFAX | DARTMOUTH | AMHERST | KENTVILLE | BRIDGEWATER | PICTOU |
|---|---|---|---|---|---|---|
| Homicide | 7 | 17 | 0 | 1 | 0 | 0 |
| Attempted Murder | 37 | 17 | 4 | 7 | 2 | 1 |
| Robbery | 125 | 70 | 4 | 7 | 2 | 4 |
| Sexual Assault | 50 | 59 | 17 | 47 | 16 | 3 |
| Other Sexual Offences | 84 | 102 | 22 | 65 | 27 | 8 |
| Major Assault | 480 | 464 | 55 | 116 | 57 | 58 |
| Common Assault | 702 | 500 | 117 | 219 | 171 | 167 |
| Uttering Threats | 464 | 289 | 70 | 121 | 93 | 94 |
| Criminal Harassment | 60 | 29 | 6 | 15 | 14 | 6 |
| Other Crimes Against a Person | 87 | 82 | 12 | 27 | 20 | 7 |
| Theft of Motor Vehicle | 61 | 34 | 12 | 13 | 4 | 0 |
| Theft | 1,076 | 695 | 83 | 248 | 123 | 126 |
| Break and Enter | 173 | 174 | 234 | 86 | 26 | 48 |
| Fraud | 476 | 281 | 32 | 29 | 61 | 52 |
| Mischief | 327 | 262 | 62 | 115 | 84 | 183 |
| Possession Stolen Property | 1,139 | 593 | 52 | 124 | 44 | 56 |
| Other Property Crimes | 70 | 43 | 1 | 15 | 4 | 5 |
| Failure to Attend Court | 166 | 126 | 8 | 10 | 9 | 3 |
| Breach of Probation | 1,767 | 913 | 194 | 173 | 120 | 51 |
| Unlawfully at Large | 43 | 96 | 5 | 2 | 3 | 4 |
| Failure to Comply with Order | 3,042 | 1,710 | 309 | 422 | 357 | 205 |
| Other Administration of Justice | 210 | 153 | 41 | 54 | 34 | 28 |
| Weapons Offences | 948 | 1,021 | 78 | 100 | 70 | 56 |
| Prostitution | 43 | 17 | 0 | 6 | 0 | 0 |
| Disturbing the Peace | 73 | 16 | 8 | 10 | 8 | 7 |
| Residual Criminal Code | 132 | 104 | 24 | 69 | 22 | 21 |
| Impaired Driving | 522 | 737 | 192 | 347 | 202 | 156 |
| Other Criminal Code Traffic | 124 | 145 | 37 | 50 | 23 | 25 |
| TOTAL | 12,488 | 8,749 | 1,679 | 2,498 | 1,596 | 1,374 |

*Continued . . .*

# APPENDIX A

## Criminal Code Charges in Provincial Court by Offence Category and Judicial Centre 2014-2015

| OFFENCE CATEGORIES | SYDNEY | TRURO | ANTIGONISH | PORT HAWKESBURY | YARMOUTH | DIGBY | TOTAL |
|---|---|---|---|---|---|---|---|
| Homicide | 1 | 0 | 0 | 0 | 0 | 0 | 26 |
| Attempted Murder | 8 | 5 | 1 | 5 | 10 | 1 | 98 |
| Robbery | 19 | 20 | 12 | 6 | 3 | 4 | 276 |
| Sexual Assault | 55 | 21 | 6 | 11 | 23 | 15 | 323 |
| Other Sexual Offences | 99 | 29 | 9 | 4 | 21 | 36 | 506 |
| Major Assault | 232 | 117 | 30 | 34 | 79 | 51 | 1,773 |
| Common Assault | 476 | 172 | 51 | 56 | 121 | 126 | 2,878 |
| Uttering Threats | 348 | 118 | 39 | 38 | 82 | 77 | 1,833 |
| Criminal Harassment | 17 | 7 | 3 | 3 | 4 | 7 | 171 |
| Other Crimes Against a Person | 47 | 22 | 6 | 0 | 8 | 9 | 327 |
| Theft of Motor Vehicle | 14 | 23 | 4 | 1 | 5 | 10 | 181 |
| Theft | 437 | 201 | 35 | 27 | 59 | 42 | 3,152 |
| Break and Enter | 120 | 58 | 28 | 23 | 31 | 32 | 1,033 |
| Fraud | 84 | 32 | 12 | 2 | 13 | 16 | 1,090 |
| Mischief | 296 | 92 | 22 | 49 | 49 | 57 | 1,598 |
| Possession Stolen Property | 130 | 156 | 7 | 4 | 19 | 42 | 2,366 |
| Other Property Crimes | 43 | 14 | 7 | 2 | 6 | 6 | 216 |
| Failure to Attend Court | 140 | 29 | 4 | 8 | 7 | 4 | 514 |
| Breach of Probation | 763 | 163 | 56 | 84 | 148 | 114 | 4,546 |
| Unlawfully at Large | 16 | 4 | 0 | 0 | 1 | 0 | 174 |
| Failure to Comply with Order | 1,830 | 492 | 99 | 146 | 234 | 250 | 9,096 |
| Other Administration of Justice | 111 | 41 | 8 | 14 | 27 | 21 | 742 |
| Weapons Offences | 271 | 114 | 18 | 35 | 49 | 283 | 3,043 |
| Prostitution | 2 | 2 | 0 | 0 | 0 | 0 | 70 |
| Disturbing the Peace | 13 | 12 | 3 | 3 | 4 | 3 | 160 |
| Residual Criminal Code | 77 | 20 | 3 | 6 | 11 | 10 | 499 |
| Impaired Driving | 343 | 354 | 121 | 104 | 179 | 121 | 3,378 |
| Other Criminal Code Traffic | 69 | 47 | 21 | 24 | 34 | 32 | 631 |
| TOTAL | 6,061 | 2,365 | 605 | 689 | 1,227 | 1,369 | 40,700 |

## APPENDIX B

### Provincial Statute Cases by Judicial Centre 2014-2015
(only cases with prosecutor assigned)

| | MOTOR VEHICLE ACT | LIQUOR CONTROL ACT | OTHER PROVINCIAL STATUTES | TOTAL |
|---|---|---|---|---|
| Halifax | 4,665 | 181 | 242 | 5,088 |
| Dartmouth | 2,278 | 19 | 165 | 2,462 |
| Amherst | 209 | 7 | 36 | 252 |
| Kentville | 276 | 29 | 46 | 351 |
| Bridgewater | 299 | 8 | 66 | 373 |
| Pictou | 161 | 9 | 15 | 185 |
| Sydney | 402 | 13 | 66 | 481 |
| Truro | 183 | 21 | 163 | 367 |
| Antigonish | 105 | 10 | 13 | 128 |
| Port Hawkesbury | 92 | 7 | 12 | 111 |
| Yarmouth | 323 | 17 | 35 | 375 |
| Digby | 266 | 19 | 49 | 334 |
| TOTAL | 9,259 | 340 | 908 | 10,507 |

## APPENDIX C
## Appeals Branch Statistics
## 2014-2015

The following are statistics related to the operations of the Appeals Branch covering the period April 1, 2014 to March 31, 2015.

The Branch participated in 29 appeals heard by the Court of Appeal. Of this number:

- 2 were initiated by the Crown
- 27 were initiated by offenders

Of the appeals initiated by the Crown, both dealt with acquittal.

Of the 27 appeals initiated by offenders:

- 18 dealt with conviction
- 8 dealt with sentence
- 1 involved a motion for further disclosure

Of the appeals initiated by offenders, one fell under the *Youth Criminal Justice Act* and five were argued by self-represented parties.

The Appeals Branch was involved in 21 appeals that were abandoned, quashed or dismissed without a full hearing in the Court of Appeal or were ordered transferred to the summary conviction appeal court (Supreme Court of Nova Scotia). One had been initiated by the Crown and 20 by offenders.

The Appeals Branch participated in 225 Chambers motions heard by a single judge in the Court of Appeal. Chambers motions include motions for a hearing date and the filing of appeal books and factums, adjournments, bail pending appeal, extension of time to appeal, directions and status updates in appeals, appointment of counsel in prisoners' appeals and striking appeals from the Court's docket. Uncontested motions are usually conducted over the telephone (teleconference Chambers) and both contested and uncontested motions are heard in open court (regular Chambers).

The Appeals Branch received 14 recommendations for appeal from trial Crown Attorneys, of which four were approved for appeal.

The Appeals Branch filed three applications for leave to appeal to the Supreme Court of Canada and offenders filed six applications for leave to appeal. The Branch received decisions in eight leave applications, one filed by the Branch and seven by offenders. The Branch filed one notice of appeal and two notices of intervention (one of which was later withdrawn). Counsel in the Branch participated in two appeal hearings and received judgment in two appeals.

## APPENDIX D

## Public Interest Disclosure of Wrongdoing

| INFORMATION REQUIRED UNDER SECTION 18 OF THE ACT | FISCAL YEAR 2014-2015 |
|---|---|
| The number of disclosures received | 0 |
| The number of findings of wrongdoing | 0 |
| Details of each wrongdoing | N/A |
| Recommendations and actions taken on each wrongdoing | N/A |